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In re Application of HUANG
U.S. Application No.: 09/868,908
Int. Application No.: PCT/US97/09742
Int. Filing Date: 04 June 1997
Attorney Docket No.: P60998US0
For: AIR CUSHION

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is in response to applicant's "Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 09 July 2001.

BACKGROUND

On 04 June 1997, applicant filed international application PCT/US97/09742. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 06 December 1999 (04 December 1999 was a Saturday).

International application PCT/US97/09742 became abandoned as to the United States at midnight on 06 December 1999 for failure to pay the basic national fee.

On 09 July 2001, applicant filed the present petition. The petition states that it is accompanied by a proper response under 35 U.S.C. 371, the petition fee set forth in 37 CFR 1.17(m), and a statement that "the entire delay in filing the attached documents to perfect the PCT Application in the United States from the due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional."

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable

petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states, "The entire delay in filing the attached documents to perfect the PCT Application in the United States from the due date until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

This application has an international filing date of 04 June 1997 and a date under 35 U.S.C. 371 of 09 July 2001.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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